IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

MFA.No. 41 of 2002()

OPMV.1977/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA
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APPELLANT: PETITIONER

BAIJU, AGED 37 YEARS,S/O.SUBRAMANIAN,
KOLAKATTIL HOUSE, RESIDING AT ANNANADU DESOM,
KALLUR-VADAKKUMMURI VILLAGE,ANNNADU P.O.,
MUKUNDAPURAM TALUK,THRISSUR DISTRICT.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS: RESPONDENTS
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1. HASHIK, A.R.VATTACKALL HOUSE,
PERUMBAIKADU, KOTTAYAM.

2. ANILAN, S/O. KARUNAKARAN,
PADUTHIPRAMBIL HOUSE, KUNNAPPILLY, POOLANI DESOM,
MUKUNDAPURAM TALUI, MELUR VILLAGE.

3. MANAGER, UNITED INDIA INSURANCE COMPANY,
KOTTAYAM.

BY ADV. SRI.P.M.M. NAJEEB KHAN FOR R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC, JJ.
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M.F.A. NO. 41 OF 2002
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Dated this the 20th day of March, 2007

J U D G M E N T

Antony Dominic, J.

The claimant in OP(M.V) 1977/94 before the MACT, Irinjalakuda is the appellant. On 3/1/94, when the claimant was walking through a public road, an autorickshaw bearing No.KRB 2896, driven by the 2nd respondent hit the claimant and he sustained severe injuries. He had produced Ext.A7 disability certificate issued by PW2, a Doctor, which certified 30% permanent disability. He had also produced Ext.A8 certificate certifying that as a tailor he was earning a monthly salary of Rs.2,250/-. However, as the employer was not examined, the Tribunal did not accept the certificate and on the other hand fixed a notional income of Rs.1,200/- per month. On this basis, fixing his diability at 25%, the Tribunal awarded total compensation of Rs.61,200/- adopting 17 as the multiplier. Thus against the total claim for Rs.1,97,500/-, Tribunal awarded a total compensation of

Rs.95,000/-.

2. It is aggrieved by the award that the claimant has come up in appeal. We note that Ext.A7 disability certificate issued was properly proved by examining the Doctor, who was examined as PW2. When such certificate has been properly proved, according to us, there is no valid reason to have restricted the disability to 25% as against the certified disability of 30%. That apart, being a tailor in the face of Ext.A8 certificate certifying that he was earning Rs.2,250/-, the Tribunal has also not assigned any valid reason to have reduced his monthly income and fix Rs.1,200/- per month. Not only that there was no evidence to the contrary. According to us, by a reasonable estimation his monthly income should have been fixed at Rs.1,500/- and on that basis the compensation awarded towards permanent disability has to be re-quantified.

3. Adopting 17 as the multiplier for the 30% disability suffered by the appellant, we award a total compensation of Rs.91,800/- as against Rs.61,200/- awarded by the Tribunal. Thus the appellant will be entitled to an additional compensation of

Rs.30,600/-. Correspondingly, the loss of earning for five months will also stand enhanced to Rs.7,800/- as against Rs.6,000/- already awarded. The additional total compensation of Rs.32,700/- will carry interest at the rate of 7% from the date of presentation of the petition till date of realisation.

Appeal stands disposed of as above.

P.R.RAMAN, JUDGE.

ANTONY DOMINIC, JUDGE.

Rp